



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MAR 22 2016

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Bissot
Plant Manager
Orion Engineered Carbons, LLP
1513 Echo Avenue
Orange, Texas 77632-2059

Re: Notice of Violation under Section 113(a)(1) of the Clean Air Act – Orion Engineered Carbons, LLP

Dear Mr. Bissot:

Enclosed is a Notice and Finding of Violation (Notice) pursuant to Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a). This Notice is issued to Orion Engineered Carbons, LLP for violations of the CAA and the Texas State Implementation Plan at its Orange, Texas, facility.

Please note the opportunity to confer outlined in the Notice. Any request to confer should be directed to Kellie Ortega at (202) 564-5529.

Sincerely,

A handwritten signature in blue ink, which appears to read "Phillip A. Brooks", is positioned above the printed name.

Phillip A. Brooks, Director
Air Enforcement Division

Enclosures

Cc: Bryan H. Sinclair, Director
Enforcement Division
Office of Compliance and Enforcement
Texas Commission on Environmental Quality

Cc (via email): David M. Friedland, Beveridge & Diamond, P.C.
Steve Thompson, EPA Region 6
Kellie Ortega, EPA Air Enforcement Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:

Orion Engineered Carbons LLC
Orange, Texas

NOTICE OF VIOLATION and FINDING OF VIOLATION

Proceedings Pursuant to
the Clean Air Act
42 U.S.C. § § 7401 et seq

NOTICE AND FINDING OF VIOLATION

This Notice and Finding of Violation (Notice) is issued to Orion Engineered Carbons, LLC (Orion) for violations of the Clean Air Act (CAA or the Act), 42 U.S.C. §§ 7401 *et seq.*, at its carbon black manufacturing plant located at 1513 Echo Road, in Orange (Orange County), Texas. Hereinafter, Orion Engineered Carbons LLC is referred to collectively as “you” or “Orion”. Specifically, Orion has violated the Texas State Implementation Plan (SIP), including permit requirements and requirements under Title V of the Act.

This Notice is issued pursuant to section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1). Section 113(a) of the CAA requires the Administrator of the United States Environmental Protection Agency (EPA) to notify any person in violation of a SIP or permit of the violations. Also included are findings of violations of the federal regulations. The authority to issue this Notice has been delegated to the Assistant Administrator of the Office of Compliance and Enforcement Assurance, and re-delegated to the Director, Air Enforcement Division.

I. STATUTORY AND REGULATORY BACKGROUND

1. The Act is designed to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

A. The National Ambient Air Quality Standards

2. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such “criteria” pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare.

3. Pursuant to Sections 108 and 109 of the Act, 42 U.S.C. §§ 7408 and 7409, EPA has identified particulate matter (PM), sulfur dioxide (SO₂) and nitrogen dioxide (NO₂), among others, as criteria pollutants, and has promulgated NAAQS for these pollutants. Certain precursors to ozone formation, such as volatile organic compounds (VOC) and oxides of nitrogen (NO_x), are regulated as part of the air quality standards for ozone itself. 40 C.F.R. §§ 50.6 to 50.11.
4. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality either meets or does not meet the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is termed an “attainment” area with respect to such pollutant. An area that does not meet the NAAQS for a particular pollutant is termed a “nonattainment” area with respect to such pollutant.
5. An area that cannot be classified as either “attainment” or “nonattainment” with respect to a particular pollutant due to insufficient data is termed “unclassifiable” with respect to such pollutant.
6. Orange, Texas, located in Orange County, the county in which Orion’s facility is located, has been classified as unclassifiable/attainment for Lead (Pb), Carbon Monoxide (CO), NO₂, PM₁₀, PM_{2.5}, and SO₂.
7. Orange County, Texas was designated as nonattainment for ozone under the 1-hour standard on November 15, 1990. The 1-hour ozone nonattainment designation was revoked on June 15, 2005 for all areas of Texas with the exception of the San Antonio area. Orange County was originally classified as nonattainment for the 1997 eight-hour ozone standard. However, it was designated “attainment” under the 1997 eight-hour ozone NAAQS on November 19, 2010 (75 Fed. Reg. 64675). In December 2008, the TCEQ submitted a redesignation request and maintenance-plan SIP revision for the county using certified monitoring data from 2005, 2006, and 2007. On October 20, 2010, the EPA published notice in the Federal Register finalizing approval of the 2008 redesignation request and maintenance-plan SIP revision, including a determination that the county has attained the 1997 eight-hour ozone standard and has met all of the applicable 1997 eight-hour ozone requirements and one-hour ozone anti-backsliding requirements for the purposes of redesignation.
8. Orange County was designated as unclassifiable/attainment, effective July 20, 2012 (77 Fed. Reg. 30088). On March 27, 2008, the EPA lowered the primary and secondary eight-hour ozone NAAQS to 0.075 parts per million (73 Fed. Reg. 16436). Orange County was designated unclassifiable/attainment under the 2008 eight-hour ozone NAAQS, effective July 20, 2012.
9. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires each state to adopt and submit to the Administrator of EPA, a plan which provides for implementation, maintenance, and enforcement, for each promulgated NAAQS, in each air quality control region (or portion thereof). Each such plan must include enforceable emission limitations and other control measures, and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved.

10. Section 172 of the Act, 42 U.S.C. § 7502, requires each state containing an area designated as nonattainment by the Administrator of EPA to submit a plan or plan revision that provides for the implementation of all reasonably available control measures as expeditiously as practicable, and provides for attainment of the national primary ambient air quality standards. Section 172(c)(1), 42 U.S.C. § 7502(c)(1).

B. Texas SIP, General Air Quality Rules

11. The Texas SIP regulations governing general air quality rules are codified at 30 TAC, Chapter 101.
12. 30 TAC §101.1(28) defines “emissions event” as any upset event or unscheduled maintenance, startup, or shutdown activity, from a common cause that results in unauthorized emissions of air contaminants from one or more emissions points at a regulated entity.
13. 30 TAC §101.1(88) defines “reportable emissions event” as any emissions event that in any 24-hour period, results in an unauthorized emission from any emissions point equal to or in excess of the reportable quantity as defined in this section.
14. 30 TAC §101.1(89)(A)(i) defines “reportable quantity (RQ)” as the lowest of quantities listed in 40 Code of Federal Regulations (CFR) Part 302, Table 302.4, the column “final RQ”; listed in 40 CFR Part 355, Appendix A, the column “Reportable Quantity”; or as listed in this subpart.
15. 30 TAC §101.1(110) defines “upset event” as an unplanned and unavoidable breakdown or excursion of a process or operation that results in unauthorized emissions. A maintenance, startup, or shutdown activity that was reported under §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements), but had emissions that exceeded the reported amount by more than a reportable quantity due to an unplanned and unavoidable breakdown or excursion of a process or operation is an upset event.
16. 30 TAC §101.201(a)(1) requires that as soon as practicable, but not later than 24 hours after the discovery of an emissions event, the owner or operator of a regulated entity shall:
 - (A) determine if the event is a reportable emissions event; and
 - (B) notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction, if the emissions event is reportable.
17. 30 TAC §101.201(b) specifies that the owner or operator of a regulated entity experiencing an emissions event shall create a final record of all reportable and non-reportable emissions events as soon as practicable, but no later than two weeks after the end of an emissions event. Final records must be maintained on-site for a minimum of five years and be made readily available upon request to commission staff or personnel of any air pollution program with jurisdiction. If a regulated entity is not normally staffed, records of emissions events may be maintained at the staffed location within Texas that is responsible for the day-to-day operations of the regulated entity.

18. 30 TAC §101.201(b)(1) specifies that the final record of a reportable emissions event must identify for all emission points involved in the emissions event:
- (A) The name of the owner or operator of the regulated entity experiencing an emissions event;
 - (B) The commission Regulated Entity Number and air account number of the regulated entity experiencing an emissions event, if a Regulated Entity Number and air account number exists, or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;
 - (C) The physical location of the points at which emissions to the atmosphere occurred;
 - (D) The common name of the process units or areas, the common name and the agency-established facility identification number of the facilities that experienced the emissions event, and the common name and the agency-established emission point numbers where the unauthorized emissions were released to the atmosphere. Owners or operators of those facilities and emission points that the commission has not established facility identification numbers or emission point numbers for are not required to provide the facility identification numbers and emission point numbers in the report, but are required to provide the common names in the report;
 - (E) The date and time of the discovery of the emissions event;
 - (F) The estimated duration of the emissions;
 - (G) The compound descriptive type of the individually listed compounds or mixtures of air contaminants, in the definition of RQ in §101.1 of this title, from all emission points involved in the emissions event, that are known through common process knowledge or past engineering analysis, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title and that were unauthorized. Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than ten pounds in a 24-hour period, are not required to be specifically listed in the report, instead these compounds or mixtures of air contaminants may be identified together as "other";
 - (H) The estimated total quantities and the authorized emissions limits for those compounds or mixtures described in subparagraph (G) of this paragraph; the preconstruction authorization number or rule citation of the standard permit, permit by rule, or rule, if any, governing the facilities involved in the emissions event; and the authorized emissions limits, if any, for the facilities involved in the emissions events, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title, which record only the authorized opacity limit and the estimated opacity during the emissions event. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. Estimated emissions from compounds or mixtures of

air contaminants that are identified as “other” under subparagraph (G) of this paragraph, are not required for each individual compound or mixture of air contaminants, however, a total estimate of emissions must be provided for the category identified as “other”;

- (I) The basis used for determining the quantity of air contaminants emitted, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title;
 - (J) The best known cause of the emissions event at the time of recording;
 - (K) The actions taken, or being taken, to correct the emissions event and minimize the emissions; and
 - (L) Any additional information necessary to evaluate the emissions event.
19. 30 TAC §101.201(b)(2) specifies that the records of non-reportable emissions events must identify:
- (A) The name of the owner or operator of the regulated entity experiencing an emissions event;
 - (B) The commission Regulated Entity Number and air account number of the regulated entity experiencing an emissions event, if a Regulated Entity Number and air account number exists, or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;
 - (C) The physical location of the points at which emissions to the atmosphere occurred;
 - (D) The common name of the process units or areas, the common name and the agency-established facility identification number of the facilities that experienced the emissions event, and the common name and the agency-established emission point numbers where the unauthorized emissions were released to the atmosphere. Owners or operators of those facilities and emission points that the commission has not established facility identification numbers or emission point numbers for are not required to provide the facility identification numbers and emission point numbers in the report, but are required to provide the common names in the report;
 - (E) The date and time of the discovery of the emissions event;
 - (F) The estimated duration of the emissions;
 - (G) The compound descriptive type of the individually listed compounds or mixtures of air contaminants, in the definition of RQ in §101.1 of this title, from all emission points involved in the emissions event, that are known through common process knowledge or past engineering analysis, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title and that were unauthorized. Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than ten

pounds in a 24-hour period, are not required to be specifically listed in the report, instead these compounds or mixtures of air contaminants may be identified together as "other";

- (H) The estimated total quantities and the authorized emissions limits for those compounds or mixtures described in subparagraph (G) of this paragraph; the preconstruction authorization number or rule citation of the standard permit, permit by rule, or rule, if any, governing the facilities involved in the emissions event; and the authorized emissions limits, if any, for the facilities involved in the emissions events, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title, which record only the authorized opacity limit and the estimated opacity during the emissions event. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. Estimated emissions from compounds or mixtures of air contaminants that are identified as "other" under subparagraph (G) of this paragraph, are not required for each individual compound or mixture of air contaminants, however, a total estimate of emissions must be provided for the category identified as "other";
 - (I) The basis used for determining the quantity of air contaminants emitted, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title;
 - (J) The best known cause of the emissions event at the time of recording;
 - (K) The actions taken, or being taken, to correct the emissions event and minimize the emissions; and
 - (L) Any additional information necessary to evaluate the emissions event.
20. 30 TAC §101.221(a) requires all pollution emission capture equipment and abatement equipment must be maintained in good working order and operated properly during facility operations. Emission capture and abatement equipment must be considered to be in good working order and operated properly when operated in a manner such that each facility is operating within authorized emission limitations.
21. 30 TAC §101.222(b): defines "non-excessive upset events" as upset events that are determined not to be excessive emissions events and are subject to an affirmative defense to all claims in enforcement actions brought for these events, other than claims for administrative technical orders and actions for injunctive relief, for which the owner or operator proves all of the following:
- (1) The owner or operator complies with the requirements of §101.201 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements). In the event the owner or operator fails to report as required by §101.201(a)(2) or (3), (b), or (e) of this title, the commission will initiate enforcement for such failure to report and for the underlying emissions event itself. This subsection does not apply when there are minor omissions or inaccuracies that do not impair the commission's ability to review the event according to this rule, unless the owner or operator knowingly or intentionally falsified the information in the report;

- (2) The unauthorized emissions were caused by a sudden, unavoidable breakdown of equipment or process, beyond the control of the owner or operator;
- (3) The unauthorized emissions did not stem from any activity or event that could have been foreseen and avoided or planned for, and could not have been avoided by better operation and maintenance practices or technically feasible design consistent with good engineering practice;
- (4) The air pollution control equipment or processes were maintained and operated in a manner consistent with good practice for minimizing emissions and reducing the number of emissions events;
- (5) Prompt action was taken to achieve compliance once the operator knew or should have known that applicable emission limitations were being exceeded, and any necessary repairs were made as expeditiously as practicable;
- (6) The amount and duration of the unauthorized emissions and any bypass of pollution control equipment were minimized and all possible steps were taken to minimize the impact of the unauthorized emissions on ambient air quality;
- (7) All emission monitoring systems were kept in operation if possible;
- (8) The owner or operator actions in response to the unauthorized emissions were documented by contemporaneous operation logs or other relevant evidence;
- (9) The unauthorized emissions were not part of a frequent or recurring pattern indicative of inadequate design, operation, or maintenance;
- (10) The percentage of a facility's total annual operating hours during which unauthorized emissions occurred was not unreasonably high; and
- (11) The unauthorized emissions did not cause or contribute to an exceedance of the national ambient air quality standards (NAAQS), prevention of significant deterioration (PSD) increments, or to a condition of air pollution.

C. Texas SIP, Control of Air Pollution by Permits for New Construction or Modification

22. The Texas SIP regulations governing the control of air pollution by permits for new construction and modification are codified at 30 TAC, Chapter 116.
23. On September 27, 1995, EPA approved the Texas SIP rule, 30 TAC, Chapter 116, Control of Air Pollution by Permits for New Construction or Modification (60 Fed. Reg. 49781). Texas submitted and EPA approved revisions to this rule on September 17, 2008 (73 Fed. Reg. 53716), March 20, 2009 (74 Fed. Reg. 11851), and October 25, 2012 (77 Fed. Reg. 65119). 40 C.F.R. § 52.2270(c).
24. 30 TAC § 116.10(4) defines "facility" as a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment.

25. 30 TAC § 116.12(37) defines “stationary source” as “any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation 42 U.S.C. §§7401 *et seq.* [Title I of the Act].”
26. 30 TAC § 116.110(a) requires any person who plans to construct any new facility or to engage in the modification of any existing facility which may emit air contaminants into the air of the state of Texas, before any work is begun on the facility, to either obtain a permit under 30 TAC § 116.111, satisfy the conditions of a standard permit (under Subchapter F of 30 TAC, Chapter 116, Subchapter B of 30 TAC, Chapter 321, 30 TAC, Chapter 332, or Subchapter N of 30 TAC, Chapter 330), satisfy the conditions of a flexible permit under Subchapter G of 30 TAC, Chapter 116, satisfy the conditions of a permit by rule (PBR) under 30 TAC, Chapter 106, or satisfy the criteria for a *de minimis* facility or source under 30 TAC § 116.119.
27. 30 TAC § 116.115(b)(2)(F) states that the maximum allowable emission rates are the total emissions of air contaminants from any of the sources of emissions must not exceed the values stated on the table attached to the permit entitled "Emission Sources--Maximum Allowable Emission Rates." Emissions that exceed the maximum allowable emission rates are not authorized and are a violation of the permit.
28. 30 TAC 116.115(b)(2)(G) prohibits permitted facilities from operating unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations. The permit holder shall provide notification for emissions events and maintenance in accordance with §§101.201, 101.211, and 101.221 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements; Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements; and Operational Requirements).
29. 30 TAC § 116.115(c) requires holders of permits, special permits, standard permits, and special exemptions to comply with all special conditions contained in the permit document.

D. Title V Requirements

30. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. *See* 57 Fed. Reg. 32295; 40 C.F.R. Part 70.
31. EPA promulgated interim approval of the Texas Title V program on June 25, 1996. *See* 61 Fed. Reg. 32693. EPA promulgated full approval of the Texas Title V program on December 6, 2001. *See* 66 Fed. Reg. 63318, and 40 C.F.R. Part 70, Appendix A.
32. The Texas regulations governing the Title V permitting program are codified at Title 30 of the Texas Administrative Code (30 TAC), Chapter 122.
33. Section 501 of the Act, 42 U.S.C. § 7661, defines a major source as any stationary source (or group of stationary sources located within a contiguous area and under common control) that is either:

- A. a “major source” as defined in section 112 of the Act, 42 U.S.C §7412, i.e., “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants,” or
 - B. a “major stationary source” as defined in section 302 of the Act, 42 U.S.C §7602, or i.e., the potential to emit 100 tons per year or more of any air pollutant, or in addition to the sources described in Section 302, as to areas of nonattainment designated as “severe,” it includes, “any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of VOC.” Section 182 of the Act, 42 U.S.C. § 182(d).
34. Section 502 of the Act, 42 U.S.C. § 7661a, prohibits any person from violating a requirement of a permit issued under Title V of the Act, or operating a major source except in compliance with a permit issued by a permitting authority under Title V of the Act.
 35. Section 503 of the Act, 42 U.S.C. § 7661b, sets forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application. *See also* 30 TAC §§ 122.130, 122.131, 122.132, and 122.133.
 36. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a SIP. *See also* 30 TAC § 122.142.
 37. 30 TAC § 122.10(2) defines “applicable requirement” as “[a]ll of the following requirements, including requirements that have been promulgated or approved by the United States Environmental Protection Agency (EPA) through rulemaking at the time of issuance but have future-effective compliance dates,” including but not limited to, all of the requirements of Chapter 115 of the TAC, as they apply to the emission units at a site (relating to Control of Air Pollution from Volatile Organic Compounds), any standard or other requirement of section 111 of the Act, 42 U.S.C. § 7411 (Standards of Performance for New Stationary Sources), and any standard or other requirement of section 112 of the Act, 42 U.S.C. § 7412 (Hazardous Air Pollutants).
 38. 30 TAC § 122.10(14) states that the term “major source” includes any site that emits or has the potential to emit, in the aggregate, ten tons per year (tpy) or more of any single HAP listed under Section 112(b) of the Act, 42 U.S.C. § 7412(b), or 25 tpy or more of any combination of HAP listed under Section 112(b) of the Act, 42 U.S.C. § 7412(b); and any site, except those exempted under Section 182(f) of the Act (NO_x Requirements), which, in whole or in part, is a major source under Title I, Part D (Plan Requirements for Nonattainment Areas) of the Act, including any site with the potential to emit 25 tpy or more of VOC or NO_x in any ozone nonattainment area classified as “severe”;

39. 30 TAC § 122.10(28) defines “site” as “[t]he total of all stationary sources located on one or more contiguous or adjacent properties, which are under common control of the same person (or persons under common control).” 30 TAC § 122.120(a)(1) states that an owner or operator of any site that is a major source according to the definitions of 30 TAC § 122.10 is subject to the permit requirements of 30 TAC, Chapter 122.
40. 30 TAC § 122.121 states that owners and operators of sites identified in 30 TAC § 122.120 “shall not operate emission units at those sites” without a Title V permit issued or granted under 30 TAC, Chapter 122.
41. 30 TAC §§ 122.130 through 122.134 require timely and complete permit applications for Title V permits and 30 TAC §§ 122.142 through 122.148 specifies required permit content.
42. 30 TAC § 122.136(b) states that if an applicant omits any relevant facts or submits incorrect information in a Title V permit application, “the applicant shall submit the relevant facts or correct the information no later than 60 days after discovering the error.”
43. 30 TAC § 122.142(b)(2)(A) requires Title V permits to include the applicable requirements for each emissions unit at a site.
44. 30 TAC § 122.143(4) states that holders of Title V permits “shall comply with all terms and conditions codified in the permit and any provisional terms and conditions required to be included with the permit.” Except for terms or conditions that have been replaced with provisional terms and conditions before issuance or denial of a revision or renewal or before the granting of a new authorization to operate, failing to comply with the terms or conditions codified in the Title V permit “is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to comply with the permit terms and conditions of the permit.”
45. 30 TAC § 122.210 requires the permit holder to submit an application to the executive director for a revision to a permit for those activities at a site which change, add, or remove one or more permit terms or conditions.

II. PERMITTING BACKGROUND

A. Title V Permit Number O-1660

46. The Facility currently operates under Title V Permit Number O-1660 that was first issued by the TCEQ on January 21, 2005, revised on February 25, 2008, renewed on August 31, 2010, revised on November 8, 2010, and revised on March 29, 2012.
47. TCEQ renewed the Permit O-1660 on July 14, 2015 to Orion Engineered Carbons LLC.
48. The permit requires that the permit holder comply with all terms and conditions contained in 30 TAC § 122.143, 30 TAC § 122.144, 30 TAC § 122.145, and 30 TAC § 122.146.

49. The permit holder requires that the permit holder comply with the 30 TAC Chapter 116 by obtaining a NSR authorization prior to new construction or modification of emission units located in the area covered by this permit.
50. The permit requires that the holder shall comply with the applicable requirement of 40 CFR part 63, Subparts A and YY.
51. According to the applicable requirements of the permit for the VOC Incinerator, "No person may allow a vent gas stream containing VOC to be emitted from any process vent, unless the vent gas stream is burned properly in accordance with § 115.122(a)(1) of the title."
52. The permit lists the New Source Review (NSR) authorizations of permit 9403B/PSDTX627 for each Emissions Point Number (EPN) which are applicable requirements under 30 TAC Chapter 122 and enforceable under the operating permit.

B. TCEQ Air Permit Number 9403B and PSDTX627M2

53. The facility is authorized to operate the equipment under the PSD/NSR Air Permit Number 9403B and PSDTX627M2 renewed by TCEQ on September 17, 2004, revised on December 19, 2007, revised on July 30, 2010, revised on October 15, 2010, revised on October 28, 2010, and amended on May 2, 2012.
54. TCEQ renewed Permit 9403B and PSDTX627M2 on December 5, 2014 to Orion Engineered Carbons LLC.
55. Permit 9403B and PSDTX627M2 requires that the permit holder maintain a copy of the permit along with records containing the information and data sufficient to demonstrate compliance with the permit, including production records and operating hours; keep all required records in a file at the plant site.
56. Permit 9403B and PSDTX627M2 requires that the permitted facilities not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations. The permit holder is required to provide notification for upsets and maintenance in accordance with 30 TAC § 101.201, § 101.211, and § 101.221 of this title (relating to Emission Event Reporting and Recordkeeping Requirements Scheduled Maintenance; Startup, and Shutdown Reporting and Recordkeeping Requirements; and Operational Requirements).
57. Permit 9403B and PSDTX627M2 states that emissions that exceed the limits of this permit are not authorized and are violations of this permit.
58. According to Special Condition (SC) 1 A and the maximum allowable emissions rate table (MAERT), Permit 9403B and PSDTX627M2 authorizes operation of, and Total Particulate Matter (PM) emissions from sources, including the following Emissions Point Numbers (EPN):
 - A. EPN 20, Carbon Black Dryer No. 1 Stack, PM Emission Rate 3.0 lbs/hour;
 - B. EPN 21, Carbon Black Dryer No. 2 Stack, PM Emission Rate 3.0 lbs/hour;
 - C. EPN 22, Carbon Black Dryer No. 3 Stack, PM Emission Rate 3.0 lbs/hour; and

- D. EPN 23, Carbon Black Dryer No. 4 Stack, PM Emission Rate 3.0 lbs/hour.
59. According to SC 1 A and the MAERT, Permit 9403B and PSDTX627M2 authorizes operation of, and Particulate Matter of diameters 10 microns or less (PM₁₀) emissions from sources, including the following EPNs:
- A. EPN 20, Carbon Black Dryer No. 1 Stack, PM₁₀ Emission Rate 1.8 lbs/hour;
- B. EPN 21, Carbon Black Dryer No. 2 Stack, PM₁₀ Emission Rate 1.8 lbs/hour;
- C. EPN 22, Carbon Black Dryer No. 3 Stack, PM₁₀ Emission Rate 1.8 lbs/hour; and
- D. EPN 23, Carbon Black Dryer No. 4 Stack, PM₁₀ Emission Rate 1.8 lbs/hour.
60. According to SC 1 A and MAERT, Permit 9403B and PSDTX627M2 authorizes operation of, and Oxides of Nitrogen (NO_x) emissions from sources, including the following EPNs: EPN 20, Carbon Black Dryer No. 1 Stack, NO_x Emission Rate 12.1 lbs/hour.
61. According to SC 2, within 180 days of the issuance date of Permit 9403B and PSDTX627M2 for existing, modified or reconstructed sources/facilities, and not later than the startup date of new sources/facilities, the holder of the permit shall physically identify and mark in a conspicuous location the EPN for each source listed in the MAERT. All sources will be marked in agreement with their identification on the plot plan submitted with the application for this permit dated December 30, 2009, as updated on March 4, 2011.
62. According to SC 9, Permit 9403B and PSDTX627M2 authorizes the operation of existing facilities provided that the following condition is satisfied: PM waste collected from any fabric filter system shall be managed in such a manner to minimized fugitive emissions while the waste material remains on site. Good housekeeping shall be used to promptly clean up any spills of material that could become airborne, such as carbon black, in order to minimized entrainment of the material into the ambient air.
63. According to SC 12D, Permit 9403B and PSDTX627M2 authorizes the operation of the Main Stack Control Device, VOC Incinerator (EPN 1-INC), provided that the following condition is satisfied: The permit holder shall maintain records which are sufficient to demonstrate proper functioning of the control device to design specifications.
64. According to SC 12E, Permit 9403B and PSDTX627M2 authorizes the operation of the Main Stack Control Device, EPN 1-INC, provided that the following condition is satisfied; the temperature monitoring device shall be calibrated at a frequency in accordance with the manufacturer's specifications, other written procedures that provide an adequate assurance that that the device is calibrated accurately, or at least annually, whichever is more frequent, and shall be accurate to within one of the following: +/- 2% of reading; or +/- 2.5 degrees Celsius.

III. FACTUAL BACKGROUND

A. General

65. Orion Engineered Carbons LLC owns and operates the carbon black manufacturing plant located at 1513 Echo Road, in Orange, Texas (“Facility”).
66. At the Facility, Orion operates three carbon black units (Units 1, 2, and 3). Orion partially combusts and thermally decomposes a heavy oil feed in a low oxygen reactor under controlled conditions, thus producing solid carbon particles which are recovered as the carbon black product. The carbon black is then dried, pelletized and packaged.
67. The Facility meets the definition of a “major stationary source” in 40 C.F.R. § 52.21(b)(1)(i)(a) because it is a carbon black plant that has the potential to emit in excess of 100 tons per year of the following regulated pollutants: of NO_x, SO₂, PM, VOC, CO, H₂S, and TRS.
68. EPA sent Orion an information request letter, dated October 29, 2010, pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, requiring Orion to submit specific information regarding its carbon black manufacturing facilities located within EPA Region 6. Orion provided responses to EPA on February 3, 2011 and on March 3, 2011.
69. EPA sent Orion a supplemental information request letter, dated September 3, 2014, pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, requiring Orion to perform stack testing of their carbon black facilities located within EPA Region 6. Stack testing was conducted between March 18 and April 3, 2015 and the results provided to the EPA on May 4, 2015.
70. EPA sent Orion a second supplemental information request letter, dated June 17, 2015, pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, requiring Orion make certain records available at the Facility for an on-site review by EPA inspectors. Orion provided responses at the Facility on September 12, 2015.
71. EPA requested further information about the Facility in an email from Mr. Daniel Hoyt to Mr. Steven K. Burgin on September 24, 2015. Orion provided responses to EPA on October 13, 2015.
72. EPA reviewed the information provided by Orion in response to the information requests referenced in paragraphs 68 – 71.

B. September 2015 EPA Inspection

73. On September 15-17, 2015, three EPA inspectors, Mr. Daniel Hoyt, Mr. Christopher Williams, and Mr. Emad Shahin, conducted an inspection of the Facility to assess compliance with the Act.
74. Inspection observations, and infrared (IR) camera imagery collected by Mr. Williams on September 16, 2015 showed a large, continuous plume characteristic of uncombusted waste gas exiting the VOC Incinerator Stack (EPN 1-INC).
75. During the inspection, Mr. Williams, Mr. Hoyt, and Mr. Shahin observed that carbon black was visibly floating in the open air throughout the plant. The material, having

accumulated over time, had coated surfaces inside and outside the equipment facilities at the plant.

76. On September 15-16, 2015, Mr. Williams, Mr. Hoyt, and Mr. Shahin observed a significant amount of external corrosion and/or deteriorated insulation on the Facility equipment including the process steam boiler, the incinerator, the main smoke header, the bag house hoppers, and fuel oil tanks.
77. On September 16, 2015, Mr. Williams, Mr. Hoyt, and Mr. Shahin performed wipe sampling of surfaces at public locations in the community that surrounded the Facility. ASTM D6602 testing was performed on the wipe samples and carbon black was detected on the samples taken at the following locations:
 - A. The top surface of the uppermost railing on the metal gate located at the end of First Street (GPS coordinates lat: 30° 9'14.54"N, long: 93°43'30.18"W).
 - B. The top surface of the telephone pole support wire closest to the street corner located at First St and Railroad Ave (GPS coordinates lat: 30° 9'11.41"N, long: 93°43'32.87"W).

V. VIOLATIONS

78. Upon review of the information provided by Orion and from data collected during the EPA inspection performed on September 15-17, 2015, EPA has concluded that Respondent violated the provisions of the CAA and TAC described in paragraphs 79 through 92 at the Facility.
79. Since April 3, 2015, Orion has violated and continues to violate its PSD permit limit for total PM emissions of 3.0 lbs per hour, for each the following sources: Carbon Black Dryer No. 1 Stack (EPN 20), Carbon Black Dryer No. 3 Stack (EPN 22), and Carbon Black Dryer No. 4 Stack (EPN 23). 30 TAC §101.1; 30 TAC §116.115(b)(2)(F); 30 TAC §116.115(b)(2)(G); 30 TAC §116.115(c); SC 1 of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
80. Since April 5, 1993, Orion has violated and continues to violate its PSD permit limit for total PM emissions of 3.0 lbs per hour, for each the following sources: Carbon Black Dryer No. 2 Stack (EPN 21). 30 TAC §101.1; 30 TAC §116.115(b)(2)(F); 30 TAC §116.115(b)(2)(G); 30 TAC §116.115(c); SC 1 of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
81. Since April 3, 2015, Orion has violated and continues to violate its PSD permit limit for PM₁₀ emissions of 1.8 lbs per hour, for each of the following sources: Carbon Black Dryer No. 1 Stack (EPN 20), Carbon Black Dryer No. 2 Stack (EPN 21) and Carbon Black Dryer No. 4 Stack (EPN 23). 30 TAC §101.1; 30 TAC §116.115(b)(2)(F); 30 TAC §116.115(b)(2)(G); 30 TAC §116.115(c); SC 1 of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
82. Since April 3, 2015, Orion has violated and continues to violate its PSD permit limit for NOx emissions of 12.1 lbs per hour for Carbon Black Dryer No. 1 Stack (EPN 20). 30 TAC §101.1; 30 TAC §116.115(b)(2)(F); 30 TAC §116.115(b)(2)(G); 30 TAC

- §116.115(c); SC 1 of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
83. Since January 1, 2012, Orion has failed and continues to fail to maintain in good working order, and operate properly, their VOC Incinerator (EPN 1-INC). 40 CFR §63.6(e); 30 TAC §101.221(a); 30 TAC §116.115(b)(2)(G); SC 12(d) of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
 84. Orion failed to route all excess process bag filter emissions to the VOC Incinerator on June 30, 2015, which resulted in unauthorized emissions of hydrogen cyanide that Orion failed to estimate and report within 24 hours. 40 CFR §63.1103(f)(3); 30 TAC §101.1; 30 TAC §101.201(a); 40 CFR §302.4; 30 TAC §101.222(b); 30 TAC §116.110(a); 30 TAC §116.115(c); SC 12 of TCEQ Air Permit 9403B and PSDTX627M2; 30 TAC §101.201(b); and Title V Permit O-1660.
 85. Orion failed to calibrate the VOC Incinerator's temperature monitoring device at least annually during the period beginning on or around January 2012 through June 2014. 30 TAC §116.115(c); SC 12 (d) and SC 12(e) of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
 86. Orion failed to prevent 239.5 lbs of unauthorized particulate matter (PM) emissions from at least 81 events during the period beginning on or around July 21, 2011 through September 23, 2015. 30 TAC §101.1; 30 TAC §101.221(a); 30 TAC §101.222(b); 30 TAC §116.110(a); 30 TAC §116.115(b)(2)(G); 30 TAC §116.115(c); SC 9 of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
 87. Orion failed to maintain in good working order, and operate properly, their equipment for PM emissions capture and abatement for at least 81 events occurring during the period beginning on or around July 21, 2011 through September 23, 2015. 30 TAC §101.1; 30 TAC §101.221(a); 30 TAC §101.222(b); 30 TAC §116.110(a); 30 TAC §116.115(b)(2)(G); 30 TAC §116.115(c); SC 9 of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
 88. Orion failed to use good housekeeping, by promptly/properly cleaning up any spills of materials that could become airborne, such as carbon black, in order to minimize entrainment of the materials into the ambient air for at least 81 events during the period beginning on or around July 21, 2011 through September 23, 2015. 30 TAC §101.1; 30 TAC §101.221(a); 30 TAC §101.222(b); 30 TAC §116.110(a); 30 TAC §116.115(b)(2)(G); 30 TAC §116.115(c); SC 9 of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
 89. Since April 3, 2015, Orion has failed to physically identify and mark in a conspicuous location the EPN for each source listed in the MAERT at the Facility. 30 TAC §116.115(c); SC 2 of TCEQ Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
 90. Orion failed to properly report deviations on their semi-annual Title V deviation reports for the Facility that cover the period from July 2011 through September 2015. 30 TAC §122.145(2); 30 TAC §101.201(b); Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.

91. Orion failed to report emissions events occurring on February 19, 2015 and February 20, 2015 to TCEQ on their semi-annual Title V deviation report for the period from January 21, 2015 to July 20, 2015. 30 TAC §122.145(2); 30 TAC §101.201(b); Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.
92. Orion failed to report the EPN and/or Facility Identification Number for the following events listed in the Title V deviation reports submitted to TCEQ on August 18 & 19 (addendum), 2015; and February 20, 2015: August 20, 2014, August 20, 2014, September 1, 2014, September 11, 2014, September 25, 2014, September 25, 2014, September 26, 2014, November 2, 2014, January 5, 2015, January 9, 2015, January 27, 2015, February 14, 2015, February 16, 2015, February 19, 2015, February 20, 2015, February 21, 2015, February 25, 2015, February 28, 2015, March 4, 2015, March 18, 2015, March 24, 2015, March 25, 2015, March 25, 2015, April 2, 2015, April 4, 2015, April 4, 2015, April 6, 2015, April 23, 2015, April 23, 2015, May 2, 2015, May 21, 2015, May 25, 2015, May 25, 2015, June 2, 2015, June 8, 2015, June 23, 2015, June 30, 2015, June 30, 2015, July 1, 2015, July 7, 2015, July 15, 2015, August 1, 2015, August 2, 2015, August 13, 2015, September 5, 2015, September 8, 2015, September 10, 2015, and September 14, 2015. 30 TAC §122.145(2); 30 TAC §101.201(b); Air Permit 9403B and PSDTX627M2; and Title V Permit O-1660.

D. ENFORCEMENT AUTHORITY

Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), provides that at any time after the expiration of 30 days following the date of the issuance of a Notice of Violation, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the state implementation plan or permit, issue an administrative penalty order in accordance with Section 113(d), or bring a civil action in accordance with Section 113(b) for injunctive relief and/or civil penalties.

E. OPPORTUNITY FOR CONFERENCE

Orion may, upon request, confer with EPA. The conference will enable Orion to present evidence bearing on the finding of violations, on the nature of the violations, and on any efforts it may have taken or proposes to take to achieve compliance. Orion has a right to be represented by counsel. A request for a conference must be made within ten days of receipt of this Notice, and the request for a conference or other inquiries concerning the Notice should be made in writing to:

Kellie Ortega, Attorney-Advisor
US Environmental Protection Agency
Air Enforcement Division
Mail Code 2242A, Room 2113
1200 Pennsylvania Ave, NW
Washington, DC 20460 mail or 20004 courier (note Room 2113 on courier packages)

If you have any questions, please feel free to call Ms. Ortega at (202) 564-5529.

F. EFFECTIVE DATE

This NOV shall become effective immediately upon issuance.

Dated: 3/22/2016


Phillip Brooks
Director
Air Enforcement Division